

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
MICHIGAN TAX TRIBUNAL

TRIBUNAL NOTICE 2005-9 (Modifying Tribunal Notice 2004-8)
**Extensions of Time; Notice of Valuation Disclosure and Prehearing
Statement Due Dates; Good Cause Shown; Rescheduling.**
Issued: October 7, 2005

2005-9 EXTENSIONS OF TIME; NOTICE OF VALUATION DISCLOSURE AND PREHEARING CONFERENCE DUE DATES; GOOD CAUSE SHOWN; RESCHEDULING. As provided by this Tribunal Notice, parties may request and receive a maximum of two automatic extensions – one 90-day extension and one 60-day extension or two (2) 60-day extensions. The motion requesting the first automatic extension must indicate whether the party or parties are requesting a 90-day extension or a 60-day extension. The requirements for requesting either a 90-day automatic extension or a 60-day automatic extension are indicated below. A party or parties may request an automatic extension prior to the effective date of this Tribunal Notice by complying with these requirements.

Motions that do not comply with the requirements for requesting an automatic extension or motions requesting additional extensions will be granted only on a showing of good cause, as explained in Tribunal Notice 2004-8 and this Tribunal Notice.

Tribunal Notice 2004-8 is modified only to the extent provided by this Tribunal Notice.

90-DAY AUTOMATIC EXTENSION

The Tribunal will automatically grant a motion requesting a 90-day extension of time for the filing and exchange of valuation disclosures and prehearing statements provided:

- The motion is filed at least 14 days before the date the valuation disclosures and prehearing statements are required to be filed and exchanged, as ordered by the Tribunal.
- The motion is the first or second request for automatic extension filed in the case. (*The Tribunal will only grant one 90-day automatic extension, as indicated above.*)
- The motion advises the Tribunal that the nonmoving party has been personally contacted and notified that the moving party was requesting an extension and would not be filing a valuation disclosure, provides the name of the person contacted, and indicates when that person was contacted.
- An affidavit is attached to the motion. The affidavit shall be signed by all experts retained to prepare the valuation disclosure and confirm the retention of those experts. (If the motion is filed by both parties, an affidavit shall be attached for each party.)

- A proposed order is attached to the motion. The proposed order shall grant the extension and provide for the filing and exchange of the valuation disclosures and prehearing statements on or before the 90th day from the date of the entry of the order unless 15 days or more of the period fall in either February or March, in which case valuation disclosures and prehearing statements must then be filed and exchanged on or before April 30. (The proposed order shall comport with the attached sample order. A fillable order will also be provided on the Tribunal's web site.)

60-DAY AUTOMATIC EXTENSION

The Tribunal will automatically grant a motion requesting a 60-day extension of time for the filing and exchange of valuation disclosures and prehearing statements provided:

- The motion is filed at least 14 days before the date the valuation disclosures and prehearing statements are required to be filed and exchanged, as ordered by the Tribunal.
- The motion is the first or second request for automatic extension filed in the case. (*The Tribunal will only grant two (2) 60-day automatic extensions, as indicated above.*)
- The motion is a joint motion signed by both parties agreeing to the requested additional extension.
- A proposed order is attached to the motion. The proposed order shall grant the extension and provide for the filing and exchange of the valuation disclosures and prehearing statements on or before the 60th day from the date of the entry of the order unless 15 days or more of the period fall in either February or March, in which case valuation disclosures and prehearing statements must then be filed and exchanged on or before April 30. (The proposed order shall comport with the attached sample order. A fillable order will also be provided on the Tribunal's web site.)

FOR-CAUSE EXTENSION

(Includes motions that do not comply with the requirements for requesting an automatic extension or motions requesting additional extensions)

The Tribunal will grant any motion that does not comply with the requirements for requesting an automatic extension or any motion requesting an additional extension of time for the filing and exchange of valuation disclosures and prehearing statements provided:

- The motion is either filed at least 14 days before the date the valuation disclosures and prehearing statements are required to be filed and exchanged, as ordered by the Tribunal, or explains why the motion was not filed sooner.
- The motion advises the Tribunal that the nonmoving party has been personally contacted and notified that the moving party was requesting an extension and would not be filing a valuation disclosure, provides the name of the person contacted, indicates when that

person was contacted, and advises the Tribunal of the nonmoving party's position on the motion or, if contact was not possible, states what contact attempts were made.

- The motion proposes new dates for the filing and exchange of valuation disclosures and prehearing statements and explains whether the nonmoving party concurs with the proposed dates.
- A proposed order is attached to the motion. The proposed order shall grant the extension and provide a space for the Tribunal to indicate the date by which the valuation disclosures and prehearing statements shall be filed and exchanged. (*The proposed order shall comport with the attached sample order.* A fillable order will also be provided on the Tribunal's web site.)
- The motion demonstrates good cause, as discussed in Tribunal Notice 2004-8, to justify the granting of an extension. The motion must address, if applicable, the reasons justifying an extension longer than 30 days, whether other extensions have been granted, and the reasons explaining why prior extensions were inadequate. Generally, good cause cannot be demonstrated by conflicting engagements of counsel, a change of representative, or ongoing settlement negotiations without a detailed explanation of the same.

DEFAULT FOR FAILURE TO COMPLY WITH THE REQUIREMENTS OF THE AUTOMATIC EXTENSIONS

A party will **automatically** be placed in default after the expiration of either the 90-day or the 60-day extension if:

- The party fails to file and exchange the valuation disclosure and prehearing statement on or before the 90th day, the 60th day, or April 30th, as applicable, and fails to file a motion requesting an automatic or additional extension not less than 14 days before the expiration of the 90-day, the 60-day extension period, or April 30th whichever is applicable.
- The party or parties file a motion for a 90-day extension but fail to advise the Tribunal that the nonmoving party has been personally contacted and notified that the moving party was requesting an extension and would not be filing a valuation disclosure, fail to provide to provide the name of the person contacted, and fail to indicate when that person was contacted.
- The party or parties file a motion for a 90-day extension but fail to attach the required affidavits to the motion.
- The parties fail to file a joint motion for a 60-day extension.
- The party or parties file a motion for a 90-day or 60-day extension but fail to attach a proposed order to the motion.

If a party is ***automatically*** placed in default, the case will be scheduled for a date certain prehearing and the defaulted party will be required to show cause why the appeal should not be dismissed or scheduled for default hearing, as provided by TTR 247.

DEFAULT FOR FAILURE TO COMPLY WITH THE REQUIREMENTS OF FOR CAUSE EXTENSIONS

A party will ***automatically*** be placed in default after the expiration of an extension granted “for cause” if:

- The party fails to file and exchange the valuation disclosure and prehearing statement, as required by the order granting the extension, and the party fails to file a motion requesting another extension before the date the valuation disclosures and prehearing statements are required to be filed and exchanged, as indicated herein.
- The party or parties file a motion requesting an extension but fail to advise the Tribunal that the nonmoving party has been personally contacted and notified that the moving party was requesting an extension and would not be filing a valuation disclosure, fail to provide the name of the person contacted, fail to indicate when that person was contacted, and fail to advise the Tribunal of the nonmoving party’s position on the motion or, if contact was not possible, fail to explain what contact attempts were made.
- The party or parties file a motion requesting an extension but fail to provide proposed new dates for the filing and exchange of valuation disclosures and prehearing statements and fail to explain whether the nonmoving party agrees with the proposed dates.
- The party or parties file a motion requesting an extension but fail to show good cause to justify the granting of the extension.
- The party or parties file a motion requesting an extension but fail to attach a proposed order to the motion for the extension.

If a party is ***automatically*** placed in default, the case will be scheduled for a date certain prehearing and the defaulted party will be required to show cause why the appeal should not be dismissed or scheduled for default hearing, as provided by TTR 247.

This Tribunal Notice will take effect December 1, 2005, unless otherwise modified by the Tribunal on or before that date based on comments received by November 15, 2005.